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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/989,311	11/20/2001	Anuraag Agrawal	6541-59028	9516
7590	07/22/2004			EXAMINER MOORE, JAMES K
KLARQUIST SPARKMAN, LLP One World Center Suite 1600 121 S.W. Salmon Street Portland, OR 97204			ART UNIT 2686	PAPER NUMBER 19
DATE MAILED: 07/22/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/989,311	AGRAWAL, ANURAAG	
	Examiner	Art Unit	
	James K Moore	2686	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 13 May 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 17-22 and 37 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 17-22 and 37 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 20 November 2001 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 13, 2004 has been entered.

Response to Arguments

2. Applicant's arguments with respect to claims 17-22 and 37 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claim 17 is rejected under 35 U.S.C. 102(e) as being anticipated by Dalal et al. (U.S. Patent Pub. No. 2002/0065894).

Regarding claim 17, Dalal discloses a messaging method comprising selecting a message type (instant message) for a message for delivery to a selected recipient, evaluating application presence data (global presence, local presence) associated with

recipient activity in an application (instant message messenger application) associated with the selected message type, and processing the message based on the evaluation. See paragraphs 0006, 0007, and 0016-0018.

Regarding claim 18, Dalal discloses all of the limitations of claim 17, and also discloses that the method comprises obtaining the application presence data from a presence repository (presence and messaging processor 15, also known as a presence server, or instant messenger server). See paragraphs 0014 and 0016.

Regarding claim 19, Dalal discloses all of the limitations of claim 17, and also discloses that the method comprises obtaining the application presence data from an application server (presence and messaging processor 15). See paragraph 0016.

Regarding claim 20, Dalal discloses all of the limitations of claim 17, and also discloses that the method comprises delivering the message to the user if the evaluation indicates that the recipient is available. See paragraphs 0017 and 0019.

Regarding claim 21, Dalal discloses all of the limitations of claim 17, and also discloses that the method comprises discarding the message if the evaluation indicates that the recipient is unavailable. See paragraph 0017.

Regarding claim 22, Dalal discloses all of the limitations of claim 17, and also discloses that the method comprises directing the message to a destination selected based on the evaluation. See paragraph 0019.

Regarding claim 37, Dalal discloses all of the limitations of claim 17, and also discloses that the application is an instant messaging application. See paragraph 0006.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ken Moore, whose telephone number is (703) 308-6042. The examiner can normally be reached on Monday-Friday from 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold, can be reached at (703) 305-4379.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703) 872-9314 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

Ken Moore

7/10/04

JKM


CHARLES APPIAH
PRIMARY EXAMINER